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Supreme Court, U.S.
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In The

Supreme Court of the United States

VINCENT JAMES KROCKA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Is *Fex v. Michigan*, which addressed the statutory right to speedy trial, relevant to the *Barker Wingo* analysis of speedy trial violations under the Sixth Amendment?

PARTIES TO THE PROCEEDING

Parties to the proceeding include Vincent James Krocka (Petitioner), T. Federico Bower, Esquire (Appellate Counsel for the Petitioner), and Susan H. Rothstein-Youakim, Esquire (Appellate Counsel for the United States).

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PETITION FOR WRIT OF CERTIORARI

OPINIONS AND ORDERS BELOW

The July 9, 2010, United States Court of Appeals for the Eleventh Circuit order granting Mr. Krocka's petition for panel rehearing, and subsequent modification of its panel opinion is attached as Appendix A to this petition. The opinion of the United States Court of Appeals for the Eleventh Circuit, *United States v. Krocka*, No. 09-11245 (11th Cir. Apr. 28, 2010), affirming the dismissal of Mr. Krocka's Sixth Amendment speedy trial violation claim was filed on April 28, 2010. That opinion is attached as Appendix B to this petition. The United States District Court for the Middle District of Florida's March 6, 2009, judgment and conviction is attached as Appendix C to this petition. The United States District Court for the Middle District of Florida's February 15, 2008 opinion and order dismissing Mr. Krocka's Sixth Amendment speedy trial violation claim is attached as Appendix D to this petition. The properly executed Interstate Agreement on Detainers detainer is attached as Appendix E to this petition.

JURISDICTIONAL STATEMENT

The judgment of the Eleventh Circuit Court of Appeals was entered on April 28, 2010. The Eleventh Circuit Court of Appeals granted Mr. Krocka's petition for panel rehearing and modified its panel opinion on July 9, 2010. Pursuant to Supreme Court Rule

13.1, this petition is timely filed if filed on or before October 7, 2010. The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The constitutional and federal statutory provisions involved in this case are:

The Sixth Amendment provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defense.

Title 18 U.S.C. App. §2, Article III of the Interstate Agreement on Detainers ("IAD") provides in relevant part:

> "(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party State, and whenever during the continuance of the term of imprisonment there is pending in any other party State any untried indictment, information, or complaint on the basis of which a detainer has been lodged against the

prisoner, he shall be brought to trial within one hundred and eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information, or complaint: Provided, That, for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decision of the State parole agency relating to the prisoner.

"(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

"(c) The warden, commissioner of corrections, or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged

> against him and shall also inform him of his right to make a request for final disposition of the indictment, information, or complaint on which the detainer is based."

Title 18 U.S.C. App. §2, Article V(c) of the IAD provides, in relevant part:

> "[I]n the event that an action on the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in article III . . . hereof, the appropriate court of the jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect."

Title 18 U.S.C. §3161(j) provides in part:

> (j)(1) If the attorney for the Government knows that a person charged with an offense is serving a term of imprisonment in any penal institution, he shall promptly –
>
> (A) undertake to obtain the presence of the prisoner for trial; or
>
> (B) cause a detainer to be filed with the person having custody of the prisoner and request him to so advise the prisoner and to advise the prisoner of his right to demand trial.

STATEMENT

A. Introduction

The length of time between Mr. Krocka's indictment on April 5, 2006, and the date that his trial was scheduled to commence, March 3, 2008, was approximately 23 months. The question of whether *Fex v. Michigan* is relevant to the *Barker Wingo* analysis of speedy trial violations under the Sixth Amendment has been squarely presented throughout the proceedings below. In balancing the *Barker Wingo* factors while assessing Mr. Krocka's assertion of a constitutional speedy trial violation, the district court held that 1) Mr. Krocka's execution of the IAD was not an assertion of his right to speedy trial; and 2) the negligence on the part of a state facility in failing to properly forward a defendant's speedy trial demand weighed in favor of the government. The Eleventh Circuit Court of Appeals affirmed the district court's holding without opinion.

If, however, *Fex v. Michigan* is deemed to be irrelevant to the constitutional analysis, more specifically if execution of a detainer is a sufficient assertion of speedy trial under the second *Barker Wingo* factor regardless of receipt, and if negligence on the part of a state facility in failing to properly forward a defendant's speedy trial assertion weighs in favor of the defendant, than Mr. Krocka's Sixth Amendment right to speedy trial was surely violated.

B. The District Court Proceedings

The Middle District of Florida had jurisdiction over Mr. Krocka's case pursuant 18 U.S.C. §3231. On April 5, 2006, a Grand Jury in the Middle District of Florida returned an indictment charging Vincent James Krocka with seventeen counts of mailing threatening communications in violation of 18 U.S.C. §876(b) and (c) and 2. App. 21. On June 8, 2006, a "detainer against a sentenced prisoner" was filed against Mr. Krocka and served on him on June 14, 2006. App. 21. On June 14, 2006, Mr. Krocka signed the detainer and circled that he demanded a speedy trial; however, such speedy trial demand was not delivered to the appropriate U.S. Attorney or U.S. district court until approximately nineteen (19) months later when Mr. Krocka filed its Motion to Dismiss. App. 29; App. 22. On January 24, 2008, Mr. Krocka was arraigned. App. 22. On February 5, 2008, Mr. Krocka filed a motion to dismiss (based on violation of his Sixth Amendment right to speedy trial) and asserted his right to a speedy trial a second time. App. 22-23. Mr. Krocka's motion was denied and the case was set for trial on March 3, 2008. App. 25. As previously stated, the length of time between Mr. Krocka's indictment and the date that his trial was scheduled to commence was approximately 23 months.

In its order denying Mr. Krocka's motion to dismiss, the district court reasoned that the length of the delay in Mr. Krocka's case weighed in his favor because it was "presumptively prejudicial". App. 23.

With regard to the reason for delay, the U.S. Attorney testified that Mr. Krocka's case was not a priority and that she "fully knew that Mr. Krocka's case was sitting in my drawer" the entire time. Pretrial hearing transcript, 2/15/08, p. 36, 37. Despite the testimony, the district court articulated that the reason for the delay weighed in favor of the Government because it never received notice of Mr. Krocka's speedy trial demand. More specifically, the detainer executed by Mr. Krocka, which demanded speedy trial, was never delivered to the U.S. Attorney or the U.S. district court. App. 24. In support of its reasoning, the Middle District of Florida cited *Fex v. Michigan*, 507 U.S. 43 (1993).

Furthermore, in its order, the district court did not deem Mr. Krocka's June 14, 2006 demand for speedy trial on the IAD detainer an assertion of his right to a speedy trial as specified under the *Barker Wingo* analysis. Instead, the district court only addressed Mr. Krocka's second demand located in his motion to dismiss. App. 24. Lastly, the district court held that "specter of the Federal prosecution over his [Krocka's] head," for almost two years, was not an adequate showing of prejudice. App. 25.

C. The Eleventh Circuit Proceedings

The Eleventh Circuit Court of Appeals affirmed Mr. Krocka's convictions without reason.[1] It is therefore reasonable to assume that the Eleventh Circuit Court of Appeals adopted the Middle District of Florida's reasoning contained in its order denying Mr. Krocka's motion to dismiss. See App. 21-25. As a result and by their reasoning, the Middle District of Florida and the Eleventh Circuit Court of Appeals in essence held that this Court's holding in *Fex v. Michigan* (a case about the **statutory right** to speedy trial) is relevant to the *Barker Wingo* analysis of speedy trial violations under the **constitution**.

ARGUMENT FOR ALLOWANCE OF THE WRIT

This case presents an important question of federal law that has not been, but should be, settled by this Court: Is *Fex v. Michigan* relevant to the *Barker Wingo* analysis of speedy trial violations under the Sixth Amendment?

A. Introduction

This Court should grant certiorari in this case because federal courts have deemed *Fex v. Michigan* relevant to the *Barker Wingo* analysis of speedy trial

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[1] The Eleventh Circuit vacated two of Mr. Krocka's convictions (counts twenty-four and twenty-five of the indictment) due to insufficient evidence and affirmed his convictions as to the remaining counts. App. 4-5.

violations under the Sixth Amendment and such a holding confuses a statutory right with a constitutional right. As a result, federal courts have improperly held that mere execution of a detainer demanding speedy trial pursuant to the IAD, without the U.S. Attorney's or district court's receipt, does not constitute an assertion of the defendant's constitutional right to speedy trial under the third *Barker Wingo* factor analysis. Furthermore, federal courts have improperly held that negligence on the part of a state facility, in failing to properly forward a defendant's speedy trial demand, should weigh in favor of the government when considering the second *Barker Wingo* factor to constitutional speedy trial violations. The Petitioner contends however, that *Fex v. Michigan* is irrelevant to the constitutional analysis.

B. Speedy Trial

Clarification and a bright line rule are needed with regard to a fundamental constitutional right. This Honorable Court held that "the right to a speedy trial is as fundamental as any of the rights secured by the Sixth Amendment", *Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967). In *Barker v. Wingo*, this Court established a four-factor test to determine when a defendant's constitutional right to a speedy trial has been violated. 407 U.S. 514 (1972). The four factors are: 1) the length of the delay; 2) the reason for the delay; 3) the defendant's assertion of the speedy trial right; and 4) the prejudice to the

defendant. *Id.* at 530. Delays of more than one year are presumptively prejudicial. *Doggett v. United States*, 505 U.S. 647 (1992). With regard to the reason for the delay, "different weights should be assigned to different reasons". *Barker*, 407 U.S. at 531. More specifically, deliberate attempts to delay trial are weighed heavily against the government whereas more neutral reasons are weighted less heavily "but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant". *Id.* Finally, "[i]f, after the threshold inquiry is satisfied and the second and third factor are considered, all three of these factors weigh heavily against the Government, the defendant need not show actual prejudice (the fourth factor) to succeed in showing a violation of his right to a speedy trial." *United States v. Ingram*, 446 F.3d 1332, 1336 (11th Cir. 2006) (citing Doggett, 505 U.S. 647).

Shortly after *Klopfer v. North Carolina*, this Honorable Court held that speedy trial rights extend to people imprisoned on other offenses. *Smith v. Hooey*, 393 U.S. 374 (1969). Similarly, "[f]orty-eight States, the Federal Government, and the District of Columbia . . . have entered into the Interstate Agreement on Detainers (Agreement), 18 U.S.C. App. §2, p. 692, an interstate compact". *Alabama v. Bozeman*, 533 U.S. 146, 148 (2001). Such agreement creates the procedures required for lodging and executing a detainer against a defendant already serving a sentence for a different crime. *Id.* Pursuant to the IAD, there

is a 180-day window where the prisoner can demand speedy trial. In *Fex v. Michigan*, this Honorable Court held that the 180-day time period of the IAD does not begin to run until the prisoner's demand has actually been delivered to the U.S. Attorney who lodged the detainer, as well as the U.S. District Court holding jurisdiction over the case. 507 U.S. 43, 47 (1993).

Although this Court in *Fex v. Michigan* rejected the notion that execution of the detainer constitutes a sufficient demand under the Act when the request is never delivered to the "receiving state", it must be determined whether such holding is relevant to the Sixth Amendment constitutional analysis of speedy trial violations established in *Barker v. Wingo*. Deeming *Fex v. Michigan* relevant, there are strong reasons to believe that the Middle District of Florida, and the Eleventh Circuit Court of Appeals have decided the issue incorrectly. First, the holding in *Fex v. Michigan* applies to a defendant's statutory right to speedy trial; and second, the purpose of demanding speedy trial under the IAD differs from the purpose for which this Court in *Barker* included the question of whether the defendant asserted his right to speedy trial as a relevant factor to consider in the context of constitutional speedy trial violations.

C. There are strong reasons to believe that the Middle District of Florida and the Eleventh Circuit Court of Appeals have decided the issue incorrectly

i. Assertion of the constitutional right

The mere execution of a detainer demanding speedy trial pursuant to the Interstate Agreement on Detainers (IAD), regardless of whether the U.S. Attorney or proper district court receives it, should constitute an assertion of the defendant's constitutional right to speedy trial under the third *Barker Wingo* factor analysis. The purpose of demanding speedy trial under the IAD differs from the purpose for which this Court in *Barker* included factor number three (the defendant's assertion of speedy trial) in the constitutional analysis. The function of demanding speedy trial under the IAD is to start the running of the prisoner's 180-day **statutory** speedy trial clock, the purpose being " . . . to provide a swift and certain means for resolving the uncertainties and alleviating the disabilities created by outstanding detainers". *Fex*, 507 at 1092 (dissenting opinion). Under the constitution however, the right to a speedy trial exists whether the defendant asserts it or not. Furthermore, neither the constitution nor case law (unlike the IAD) establishes an exact time limit to which the Sixth Amendment right to speedy trial pertains. According to this Court in *Barker*, the purpose of assessing whether the defendant asserted his speedy trial right is not to determine whether his claim should be barred, but to determine whether a

defendant was being deprived of the constitutional right that already exists. This court reasoned that "[t]he more serious the deprivation, the more likely a defendant is to complain." *Barker*, 407 at 531-32.

The fact that Mr. Krocka executed a detainer demanding speedy trial under the IAD, should constitute an assertion of his Sixth Amendment speedy trial right under the *Barker* analysis regardless of the fact that both the U.S. Attorney and district court failed to receive it. The holdings in *Fex v. Michigan,* and subsequent precedent that was binding on Mr. Krocka's case,[2] should not bar the district court from considering the date of the demand contained on the IAD detainer. Contrary holdings are irrelevant to the **constitutional analysis** created by this Court in *Barker*. To hold statutory precedent relevant to the constitutional analysis assumes the rule of law that a defendant must demand speedy trial, and the U.S. attorney must have knowledge of such demand, in order for the constitutional right to exist, or for a constitutional violation to occur. Such a holding is not

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[2] The Eleventh Circuit stated the following in *United States v. Pena-Corea*: "The question here is whether the Government should be held responsible for the state custodian's failure to serve Pena with the federal detainer and to advise him of his right to demand a trial. We think not. In reaching this conclusion, we follow the lead of the Fifth Circuit in Lara v. Johnson, 141 F.3d 239, 243 (5th Cir. 1998), which held that 'dismissal because of negligence on the part of the sending state is not a part of the IAD [A], and . . . it would be inappropriate to expand the list of situations in which dismissal is dictated.'" 165 F.3d 819, 821-22 (11th Cir. 1999).

proper under the constitution or case law. The right to speedy trial is fundamental and express under the constitution and as a result, it is not the defendant's job to bring himself to trial.

In sum, failure of the district court and U.S. Attorney to receive a prisoner's demand for speedy trial contained on a properly executed detainer form is not the equivalent to a prisoner's failure to assert speedy trial for the purposes of the *Barker Wingo* constitutional analysis. This Court in *Fex v. Michigan* was concerned with the government's receipt for purposes of establishing a 180-day **statutory** clock. However, this Court in *Barker* was concerned with whether a defendant's automatic constitutional right to speedy trial, which has no predetermined clock, has been violated. In that regard, this Court considers the prisoner's assertion, not the U.S. Attorney's receipt.

ii. Reason for the delay

Similar to the argument above, negligence on the part of a state facility, in failing to properly forward a defendant's speedy trial demand, should weigh in favor of the Defendant, and against the government, when considering the second *Barker Wingo* factor. The second factor in the *Barker Wingo* analysis assesses the government's reason for delay. The Eleventh Circuit, in Mr. Krocka's case, affirmed the Middle District of Florida's holding which stated that the reason for the delay weighed in favor of the

government pursuant to the reasoning in *Fex v. Michigan*. However, unlike the statutory analysis subject to the case of *Fex v. Michigan*, a prisoner's assertion of his speedy trial right under the constitutional analysis does not exist for the purpose of putting the government on notice that the defendant wants a speedy trial. Such a purpose would constitute improper burden shifting in the sense that the defendant does not have to demand speedy trial in order to gain the right. The right exists under the constitution of the United States, and failure to assert it does not waive it. *Barker*, 407 at 528.

Instead, and as stated above, the third factor under *Barker* exists in order for the court to determine whether a defendant's constitutional right to speedy trial was in fact violated. With regard to the reason for the delay, "different weights should be assigned to different reasons". *Barker*, 407 U.S. at 531. More specifically, deliberate attempts to delay trial are weighed heavily against the government whereas more neutral reasons are weighted less heavily **"but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant"**. *Id.* (emphasis added).

As a result, for any court to hold, with regard to the *Barker Wingo* second factor, that failure of the government to receive notice of the defendant's properly executed speedy trial demand weighs in favor of the government is unconstitutional. Whether

the U.S. Attorney received Mr. Krocka's demand (via the IAD detainer) is irrelevant to the reason for the delay. Instead, the only thing that is relevant to any court's analysis was the fact that the U.S. Attorney, in Mr. Krocka's case, testified that she knew that the case was sitting in her drawer for nearly two years and chose not to go forward. Whether a deliberate attempt to gather more evidence against Mr. Krocka,[3] or just simple negligence, the weight should be assessed against the government rather than against Mr. Krocka. This Court's reasoning in *Fex v. Michigan* should not create a situation where the reason for the delay ever weighs in favor of the government as the district court in Krocka's case determined and the Eleventh Circuit subsequently affirmed. How can the reason for the delay ever weigh in favor of the government, and against the defendant, if the constitutional right to speedy trial is automatic and " . . . the ultimate responsibility for such circumstances must rest with the government rather than with the defendant"? *Id.*

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[3] It was alleged that the U.S. Attorney failed to bring Mr. Krocka to trial within a reasonable time in order to allow him to write more "threatening" letters to his wife. Letters, that defense counsel argued, could become the reason for Mr. Krocka's conviction.

CONCLUSION

For the reasons stated above, petitioner Vincent Krocka requests that this Court grant his petition for writ of certiorari.

Respectfully submitted,

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APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 09-11245

D.C. Docket No. 06-00127-CR-T-24-TGW

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VINCENT JAMES KROCKA,
a.k.a. Da Monster,

Defendant-Appellant.

Appeal from the United States District Court for the Middle District of Florida

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ON PETITION FOR PANEL REHEARING

(Filed Jul. 09, 2010)

Before DUBINA. Chief Judge, MARTIN, and COX Circuit Judges.

PER CURIAM:

This case is before us on Appellant Vincent James Krocka's petition for panel rehearing. In our prior panel opinion in *United States v. Krocka*, No.

09-11245 (11th Cir. Apr. 28, 2010), we vacated Krocka's sentence in its entirety, remanded the case to the district court for resentencing, and left to the discretion of the court whether to hold a new sentencing hearing. Krocka argues in his petition that because his sentence was vacated in its entirety, our prior opinion erroneously left to the discretion of the district court whether to hold a new sentencing hearing. We conclude that Krocka's argument has merit. *See United States v. Jackson*, 923 F.2d 1494, 1496-97 (11th Cir. 1991). Therefore, the petition for panel rehearing is granted. On rehearing, our prior opinion is modified in the following manner and none other: the last clause of the last sentence on page seven of the opinion, reading "but leave to the discretion of the district court whether to hold a new sentencing hearing" is deleted. *Krocka*, No. 09-11245, slip op. at 7.

PETITION FOR PANEL REHEARING GRANTED; PANEL OPINION MODIFIED.

SO ORDERED.

APPENDIX B

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 09-11245

D.C. Docket No. 06-00127-CR-T-24-TGW

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VINCENT JAMES KROCKA,
a.k.a. Da Monster,

Defendant-Appellant.

Appeal from the United States District Court for the Middle District of Florida

---

(April 28, 2010)

Before DUBINA, Chief Judge, MARTIN and COX, Circuit Judges.

PER CURIAM:

A federal grand jury issued a twenty-five count indictment against Vincent James Krocka. It includes

counts of mail threat in violation of 18 U.S.C. § 876(c), extortionate mail threat in violation of 18 U.S.C. § 876(b), and witness tampering in violation of 18 U.S.C. § 1512(b)(1). He was convicted on four counts of mail threat, four counts of extortionate mail threat, and six counts of witness tampering. He appeals those convictions and his sentence.

Krocka raises a number of issues on appeal; we address in detail only his contention that the district court erred in denying his motion for judgment of acquittal as to counts twenty-four and twenty-five of the indictment, which allege witness tampering.[1] Because we conclude that insufficient evidence was presented at trial for a rational juror to find that Krocka attempted to intimidate, threaten, or otherwise influence the testimony of the witness described

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[1] Krocka also contends: (1) that the court erred in denying his motion to dismiss the indictment because he was denied his constitutional right to a speedy trial; (2) that the court erred in admitting, under Federal Rule of Evidence 404(b), evidence of prior crimes; (3) that the court erred in admitting evidence of phone calls between Krocka and his sons to which the alleged target of his threats was not privy; (4) that the court erred in denying his motion for acquittal on sufficiency of the evidence grounds as to counts 5, 10, 11, 13-17, and 20-23; (5) that the court failed to instruct the jury that mental abuse is not a form of bodily injury; (6) that the court improperly grouped his convictions for sentencing purposes; and (7) that the court erred in failing to reduce his sentence due to the fact that he suffered from reduced mental capacity. After review of the record, and with the benefit of oral argument, we conclude that these arguments are without merit.

in those counts, we hold that he is entitled to a judgment of acquittal as to those two counts.

Count twenty-four of the indictment alleges that Krocka:

> did knowingly and willfully use intimidation, threaten, and corruptly persuade another person, and attempt to do so, with the intent to influence, delay, and prevent the testimony of that person in an official proceeding, that is, an appearance as a witness in the trial of Vincent J. Krocka, et al, Case Number 8:06-CR-00127-T-23 TGW, in the United States District Court for the Middle District of Florida, in that the defendant attempted to send, and sent a letter to his son stating in part:
>
> > " . . . Don't let the government scare you or bulldoze you. Stand up to them. Tell them to fuck off . . . ["]
> >
> > " . . . I need you to stop mom from showing up at court and testifying against me. Can you imagine her disloyalty to all of us. It is in your hands. I trust you and I am depending on you for my freedom."

(R.1-34 at 19.)

Count twenty-five of the indictment alleges that Krocka:

> did knowingly and willfully use intimidation, threaten, and corruptly persuade another

> person, and attempt to do so, with the intent to influence, delay, and prevent the testimony of that person in an official proceeding, that is, an appearance as a witness in the trial of Vincent J. Krocka, et al, Case Number 8:06-CR-00127-T-23 TGW, in the United States District Court for the Middle District of Florida, in that the defendant attempted to send, and sent a letter to his son stating in part:
>
> > " . . . You must stop mom from coming to court and testifying against me, and if you are contacted by the government, don't talk to them but refer them to your lawyer . . . same for Dan, tell him![']

(*Id.* at 20.) At trial, the Government introduced the letters in their entirety, but did not present other evidence that directly supports the allegations contained in counts twenty-four and twenty-five.

We conclude that the witness described in these counts of the indictment is Jeff Krocka, the defendant's son.[2] The indictment charges that Defendant

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[2] These counts do not explicitly name Jeff Krocka as the target of the alleged witness tampering. Each count identifies and quotes from a letter Defendant Krocka wrote to Jeff. The letter identified in count twenty-five was also addressed and mailed to Jeff, but the letter identified in count twenty-four was addressed and mailed to Defendant Krocka's son Dan. The identity of the witness said to be tampered with is ambiguous at best, but because both of the letters were written to Jeff, we conclude that these counts charge that Defendant Krocka

(Continued on following page)

Vincent Krocka willfully intimidated, threatened, and corruptly persuaded Jeff with an intent to influence, prevent, and delay Jeff's testimony. And, the jury was instructed that it could find the defendant guilty only if it was proved beyond a reasonable doubt that: (1) the person described in the indictment was a witness or scheduled to be a witness; (2) the defendant used intimidation, threats, or corrupt persuasion or attempted to do so against such person as charged; and (3) the defendant did so knowingly and willfully with the intent to influence, delay, or prevent the testimony of the witness. (R.7-123 at 95.) The jury was instructed that: to "intimidate" means to intentionally say or do something that would cause a person to be fearful of bodily harm; "corruptly" means to do something knowingly and dishonestly with a specific intent to subvert or undermine the integrity of a proceeding; and that to do something "knowingly corruptly," a person must be conscious of his wrongdoing. (*Id.* at 95-96.) No objection was made at trial to these jury instructions.

After review of the letters offered to support the allegations of witness tampering, we conclude that no rational juror could interpret the letters as attempting to intimidate, threaten, or corruptly persuade Jeff Krocka in order to influence, delay, or prevent his

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attempted to interfere with Jeff's testimony. Because we reverse Defendant Krocka's conviction for count twenty-four on other grounds, we do not address whether the court plainly erred in failing to dismiss this count because it fails to state an offense.

testimony. The letter offered to support the allegations of count twenty-four advises Jeff that he may be subpoenaed to give copies to the Government of all of the letters Defendant Vincent Krocka had written to him, and it warns Jeff that he may be asked to testify before a federal grand jury. It goes on to direct Jeff to inform the defendant's attorney if he is subpoenaed and to "[d]o exactly as he tells you." (Gov's Ex. 24.) The letter also advises Jeff that "[y]ou have your own right to privacy in your mail that you receive," and it encourages him to "stand up to" the Government. (*Id.*) A rational juror would likely interpret these statements as an attempt by the defendant to advise his son of his legal rights. These statements do not threaten or intimidate, nor are they an attempt to "corruptly persuade" Jeff, as those terms are defined by the jury instructions, to delay or alter his testimony. Moreover, nothing in the letter offered by the Government to prove the allegations contained in count twenty-five could be construed as an attempt to intimidate, threaten, or corruptly persuade Jeff to delay or alter his testimony. The six-page letter discusses personal matters unrelated to Defendant Krocka's upcoming trial. The only mention of the trial is one statement encouraging Jeff to "stop Mom from coming to court and testifying against me." (Gov's Ex. 25 at 5.) This could not be interpreted as an attempt by Defendant Krocka to influence, delay, or prevent *Jeff's* testimony.

The Government argues, on appeal, that the letters could be construed as having three intended

recipients, Jeff, Mrs. Grace Krocka, and the defendant's son Dan. And, it argues that the letters could be interpreted as an attempt to encourage the sons to prevent or influence Grace Krocka's testimony. We agree; statements such as "stop Mom from coming to court and testifying against me" could be construed as an attempt to cause the sons to prevent Grace from testifying. But, the counts at issue do not allege that the letters were delivered to anyone other than their intended recipient, and the counts do not allege that the defendant intended the letters to affect Grace Krocka's testimony. Rather, they charge that the defendant attempted to influence, prevent, or delay Jeff's testimony. And, the jury was instructed that the defendant could be found guilty only if it was proved that the defendant used intimidation, threats, or corrupt persuasion with the intent to influence, delay, or prevent the testimony of the witness described in the indictment.

After viewing the evidence in the light most favorable to the Government, we conclude that no rational trier of fact would have found all the essential elements of counts twenty-four and twenty-five beyond a reasonable doubt. *See United States v. Eckhardt,* 466 F.3d 938, 944 (11th Cir. 2006). Therefore, we hold that the court erred in denying Defendant Krocka's motion for judgment of acquittal. We reverse his convictions as to counts twenty-four and twenty-five of the indictment, affirm his convictions as to the remaining counts, and vacate his sentence. We remand the case to the district court for resentencing,

but leave to the discretion of the district court whether to hold a new sentencing hearing.

AFFIRMED IN PART; REVERSED IN PART; SENTENCE VACATED; AND REMANDED FOR RESENTENCING.

APPENDIX C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA	**JUDGMENT IN A CRIMINAL CASE**
vs.	CASE NUMBER: 8:06-cr-127-T-24TGW
VINCENT JAMES KROCKA	USM NUMBER: 49816-018
	Defendant's Attorney: Joseph Bodiford, Esq.

THE DEFENDANT:

___ pleaded guilty to Count(s).

___ pleaded nolo contendere to count(s) which was accepted by the court.

_X_ was found guilty on counts Five, Ten, Eleven, Thirteen through Seventeen and Twenty through Twenty Five of the Superseding Indictment after a plea of not guilty.

TITLE & SECTION	NATURE OF OFFENSE	OFFENSE ENDED	COUNT
18 USC §§ 876(b) and (c) and 2	Mail Threat	November 25, 2007	Five, Ten, Eleven and Fifteen
18 USC § 876(b) and (c) and 2	Extortionate Mail Threat	November 25, 2007	Thirteen, Fourteen, Sixteen and Seventeen
18 USC § 1512(b)(1)	Witness Tampering	June 2, 2008	Twenty Through Twenty-five

The defendant is sentenced as provided in pages 2 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

X The defendant has been found not guilty on counts One, two, Three, Six, Eight, Nine, Twelve, Eighteen and Nineteen of the Superseding Indictment.

X Counts Four and Seven of the Superseding Indictment are dismissed pursuant to the Amended Judgment of Acquittal entered December 19, 2008.

X The Original Indictment is dismissed.

IT IS FURTHER ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of any material change in economic circumstances.

Date of Imposition of Sentence:
March 6, 2009

/s/ Susan C. Bucklew
SUSAN C. BUCKLEW
UNITED STATES
DISTRICT JUDGE
DATE: March 6, 2009

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of ***SIXTY (60) Months as to Counts 5, 10, 11 and 15 of the Superseding Indictment; ONE HUNDRED TWENTY-ONE (121) Months as to Counts 13, 14, 16, and 17 of the Superseding Indictment; ONE HUNDRED TWENTY (120) Months as to Counts 20, 21, 22, 23, 24 and 25 of the Superseding Indictment; all such terms to run concurrently to each other and consecutively to the sentence imposed in Florida State Circuit Court Case Number 04-CF-6505, in Hillsborough County.***

X The Court makes the following ***recommendations*** to the Bureau of Prisons:

1. Defendant to serve term of imprisonment at FCI Coleman.
2. Defendant to participate in the 500 hour Intensive Drug Program.

X The defendant is remanded to the custody of the United States Marshal.

___ The defendant shall surrender to the United States Marshal for this district.

___ at ___ a.m./p.m. on ___.

___ as notified by the United States Marshal.

___ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.

___ before p.m. on ___.

___ as notified by the United States Marshal.

___ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows: _____

_____

_____

_____

Defendant delivered on _____ _____

to _____

at _____,

with a certified copy of this judgment.

/s/ _____
United States Marshal

By: /s/ _____
Deputy United States Marshal

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of ***THIRTY SIX (36) Months as to Counts 5, 10, 11, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24 and 25 of the Superseding Indictment, all such terms to run concurrently to each other***.

The defendant must report to the probation office in the district to which the defendant is released

within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime. Based on the probation officer's determination that additional drug urinalysis is necessary, the Court authorizes random drug testing not to exceed 104 tests per year. The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance.

The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.

X The defendant shall cooperate in the collection of DNA as directed by the probation officer.

If this judgment imposes a fine or restitution it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payment sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;

2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;

3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

4) the defendant shall support his or her dependents and meet other family responsibilities;

5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;

6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;

7) the defendant shall refrain from excessive use of alcohol and shall not purchase possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;

8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;

9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;

10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere

and shall permit confiscation of any contraband observed in plain view of the probation officer;

11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and

13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall also comply with the following additional conditions of supervised release:

X The defendant shall participate, as directed by the Probation Officer, in a program (outpatient and/or inpatient) for treatment of narcotic addiction or drug or alcohol dependency. This program may include testing for the detection of substance use or abuse. Further, the defendant shall be required to contribute to the costs of services for such treatment not to exceed an amount determined reasonable by the Probation Officer's Sliding Scale for Substance Abuse Treatment Services.

X The defendant shall participate as directed in a program of mental health treatment approved by the Probation Officer. Further, the defendant shall be required to contribute to the costs of services for such treatment not to exceed an amount determined reasonable to by Probation Officer based on ability to pay or availability of third party payment and in conformance with the Probation Office's Sliding Scale for Mental Health Treatment Services.

X The defendant shall provide the probation officer access to any requested financial information.

X The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, acquisitions or obligating himself/herself for any major purchases without approval of the probation officer.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments.

	Assessment	Fine	Total Restitution
Totals:	**$1,400.00**	**$12,500.00**	**n/a**

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

A. ____ Lump sum payment of $ ___ due immediately, balance due

___ not later than, _____ or

___ in accordance ___ C, ___ D, ___ E or ___ F below; or

B. _X_ Payment due immediately.

C. ____ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of $ ___ over a period of _____ (e.g., months or years), to commence ___ days (e.g., 30 or 60 days) after the date of this judgment; or

D. ____ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of $ ___ over a period of _____ (e.g., months or years) to commence ___ (e.g. 30 or 60 days) after release from imprisonment to a term of supervision; or

E. ____ Payment during the term of supervised release will commence within ___ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time, or

F. ____ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except

those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

– Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate:

– The defendant shall pay the cost of prosecution.

– The defendant shall pay the following court cost(s):

– The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

APPENDIX D

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

vs.

VINCENT JAMES KROCKA

Defendant

CASE NO: 8:06-CR-127-T-24TGW

ORDER

This case is before the Court on the Defendant Vincent James Krocka's Motion to Dismiss Based on Violation of Constitutional Right to Speedy Trial. (Doc. 10). The Government filed a Response in Opposition. (Doc. 12). The Court conducted a hearing on February 15, 2008. Counsel for the Defendant waived Defendant's presence at the hearing.

FINDINGS OF FACT

1. On April 5, 2006, a Grand Jury in the Middle District of Florida returned an indictment charging Vincent James Krocka with seventeen counts of mailing threatening communications in violation of 18 U.S.C. §876(b) and (c) and 2.

2. On June 8, 2006, a detainer against a sentenced prisoner was filed against the Defendant and served on him on June 14, 2006.

3. On June 14, 2006, Defendant signed the detainer and circled that he demanded a speedy trial under the IADA. The detainer notified Defendant as follows: "I also understand that my right to a speedy trial under the IADA is the right to be brought to trial within 180 days after my written notice of request for a final disposition of the charges against me has actually been delivered to the appropriate U.S. Attorney and the appropriate U.S. District Court. I further understand that the 180 day time limit may be tolled by any delays attributable to me, and I must periodically inquire as to whether my written notice of request for a final disposition of the charges against me has been received by the appropriate U.S. Attorney and the appropriate U. S. District Court." (Page 2 of detainer, Exhibit 2). The detainer further notified the Defendant as follows: "You are hereby advised that the 180 day time limit does not commence until your written notice of request for a final disposition of the charges against you has actually been delivered to the appropriate U.S. Attorney and the appropriate U.S. District Court." (Page 1 of detainer, Exhibit 2).

3. Defendant's speedy trial demand on the detainer was not delivered to the U.S. Attorney for the Middle District of Florida nor to the U.S. District Court in the Middle District of Florida.

5. On January 24, 2008, Defendant was arraigned.

6. On February 5, 2008, Defendant filed the instant motion to dismiss in which he asserted his

right to a Speedy Trial under the Sixth Amendment and 18 U.S.C. §3161.

7. Defendant's case is set for trial on March 3, 2008.

CONCLUSIONS OF LAW

The Supreme Court has established a four-factor test to determine when a defendant's constitutional right to a speedy trial has been violated. The four factors are:

1) the length of the delay; 2) the reason for the delay; 3) the defendant's assertion of the speedy trial right; and 4) the prejudice to the defendant. *Barker v. Wingo*, 407 U.S. 514, 530 (1972). Accordingly, the Court will examine each of the factors in light of the facts of this case.

1. Length of Delay: The time between the indictment and the date the trial is to begin is approximately 23 months. Delays of more than one year are presumptively prejudicial. *Doggett v. U.S.*, 505 U.S. 647, 651-652. (1992). This factor weighs in favor of the Defendant. Therefore the Court will examine the remaining factors.

2. Reason for Delay: Defendant was incarcerated on state charges. Pursuant to 18 U.S.C. §3161(j), the attorney for the government can undertake to obtain the presence of the prisoner for trial **or** cause a detainer to be filed with the person having custody of the prisoner and request him to advise the prisoner and to advise the prisoner of his right to demand

trial. The U.S. attorney followed the statute and filed a detainer on June 8, 2006. The Defendant was served with the detainer at his state institution on June 14, 2006 and checked on the detainer that he was demanding a speedy trial. However the request for a speedy trial was not delivered to or received by either the U.S. Attorney or the U.S. District Court. In *Fex v. Michigan*, 507 U.S. 43(1993), the Supreme Court held that the 180 day time period of the IAD does not begin to run until the prisoner's demand has actually been delivered to the U.S. District Court who has jurisdiction over his case and the U.S. Attorney who lodged the detainer. ***Id.*** at 47, 52. Dismissal of the Federal case because of the negligence on the part of the state facility in failing to properly forward the speedy trial demand is not appropriate. *United States, v. Penna-Corea*, 165 F.3d 819, 821-822(1999) In addition, the Defendant who is a lawyer and currently prosecuting a civil case as a pro-se plaintiff, made no effort to file a speedy trial demand with the Court or the U.S. Attorney.

The reason for delay weighs in favor of the Government.

3. Speedy Trial Demand: Defendant demanded a speedy trial in the motion to dismiss which was filed with the U.S. District Court and served on the U.S. Attorney on February 5, 2008. Defendant is scheduled for trial on March 3, 2008, approximately 27 days from the time the Court and the U.S. Attorney were notified of his Demand for a Speedy Trial. This factor weighs in favor of the Government.

4. Prejudice to Defendant: Defendant points to anxiety because of the "specter of the Federal prosecution over his head," incarceration with a federal hold for almost two years, inability to conduct discovery, and bad faith in bringing the matter to trial at this time. At the hearing, counsel for the Defendant was asked to elaborate on the allegations of prejudice. However any alleged prejudice was based on speculation as to what could have happened or might happen in the future rather than fact. Defendant has not shown he has been prejudiced by the 23 month delay. If anything, the delay has probably been favorable to the Defendant. This factor weighs in favor of the Government.

Having considered the motion, the response and the argument of counsel at the hearing, the court finds that the motion to dismiss based on a violation of the Constitutional right to a speedy trial should be DENIED.

This case is set for a jury trial to begin on March 3, 2008. If Defendant wishes to withdraw his demand for a speedy trial, the withdrawal and any motion to continue the trial must be filed by Wednesday, February 2008.

It is so ORDERED, this 15, day of February 2008.

/s/ Susan C. Bucklew
SUSAN C. BUCKLEW
United States District Judge

APPENDIX E

U.S. Department of Justice [SEAL]
United States Marshals Service

DETAINER

AGAINST SENTENCED PRISONER

United States Marshal
Middle District of Florida

Please type or print neatly:

TO: FLORIDA DEPARTMENT OF CORRECTIONS
2601 BLAIR STONE ROAD
TALLAHASSEE, FL 23299-2500
C/O TONOKA C.I.

DATE: 06/08/2006
SUBJECT: Krocka, Vincent J.
AKA:
DOB/SSN: [Omitted In Printing]
USMS #: FDOC# T47699
CR #: 8:06CR127T24TGW

Please accept this Detainer against the above-named subject who is currently in your custody. The United States District Court for the Middle District of Florida has issued an **arrest warrant(s)** charging the subject with the commission of the following offense(s):

Mailing threatening communications. In violation of Title 18, United States Code, Section(s) 876(b) and (c)

Prior to the subject's release from your custody, please notify this office at once so that we may assume custody if necessary. If the subject is transferred from

your custody to another detention facility, we request that you forward our Detainer to said facility at the time of transfer and advise this office as soon as possible.

The notice and speedy trial requirements of the Interstate Agreement on Detainers Act APPLY to this Detainer because the Detainer is based on pending Federal criminal charges which have not yet been tried. Pursuant to the provisions of the Interstate Agreement on Detainers Act (IADA), a person serving a sentence of imprisonment in any penal institution against whom a detainer is lodged (based on pending Federal criminal charges which have not yet been tried) must be advised that a Detainer has been filed and that the prisoner has the right to demand speedy trial on those charges. **Accordingly, please advise the subject that a Detainer has been filed against him/her and that under the IADA, he/she has the right to demand speedy trial on the charges.** If your office does not have an official form for such purposes, the statements contained in this Form below may be used.

INSTRUCTIONS FOR
COMPLETION OF STATEMENTS

1. Please read or show the following to the subject:

"You are hereby advised that a Detainer has been filed against you on (date) 06/08/2006, on the basis of Federal criminal charges riled

against you in the U.S. District Court for the Middle District of Florida. With regard to answering these charges, you are hereby advised that you have the right to demand a speedy trial under the Interstate Agreement on Detainers Act (IADA). Under the IADA, you have the right to be brought to trial within 180 days after you have caused to be delivered to the appropriate U.S. Attorney and the appropriate U.S. District Court, written notice of your request for a final disposition of the charges against you. Because the 180-day time limit may be tolled by virtue of delays attributable to you, you should periodically inquire as to whether your written notice of request for a final disposition of the charges against you has been received by the appropriate U.S. Attorney and the appropriate U.S. District Court. You are hereby advised that the 180-day time limit does not commence until your written notice of request for final disposition of the charges against you has actually been delivered to the appropriate U.S. Attorney and the appropriate U.S. District Court.

If you have any questions regarding the provisions of the L&DA, you should contact your attorney or the U.S. Attorney for the Middle District of Florida.

2. Please execute the following:

The foregoing was read to or by subject and a copy of the Detainer was delivered to him on 6-14-06 (date).

Signed Laurie Chilcot *Title:* CPO

3. Please have the prisoner execute the following:

"I have read or have been read the above paragraph notifying me that a Detainer has been lodged against me and that I have the right to demand speedy trial on the charge(s). I (do) (~~do not~~) demand a speedy trial on the charge(s). I understand that if I do request a speedy trial, this request will be delivered to the Office of the United States Attorney who caused the Detainer to be filed. I also understand that my right to a speedy trial under the IADA is the right to be brought to trial within 180 days after my written notice of request for a final disposition of the charges against me has actually been delivered to the appropriate U.S. Attorney and the appropriate U.S. District Court. I further understand that the 180-day time limit may be tolled by any delays attributable to me, and that I must periodically inquire as to whether my written notice of request for a final disposition of the charges against me has been received by the appropriate U.S. Attorney and appropriate U.S. District Court Finally, I understand that if at any time hereafter I desire to demand speedy trial and have not

already done so, I can inform my custodian who will then cause the request to be forwarded to the appropriate U.S. Attorney."

/s/ Laurie Chilcot
(Witness)

/s/ Vincent J. Krocka 6-14-06
(Signature of Prisoner and Date)

Vincent J. Krocka
(Typed or Printed Name of Prisoner)

4. Please acknowledge receipt of this detainer. In addition, please provide one copy of the Detainer to the prisoner, return one copy of the Detainer to this office in the enclosed self-addressed envelope, and, if the prisoner demands a speedy trial, forward the Detainer together with the Certificate of Inmate Status by registered or certified mail to the U.S. Attorney for the Middle District of Florida and the U.S. District Court for the Middle District of Florida.

5. If the prisoner does not demand a speedy trial at this time and further elects to demand a speedy trial on the charge(s) at a later date, you should obtain a new set of this Form USM-17 from the United States Marshal, have the prisoner complete the amended form, and follow the instructions contained in paragraph 4 above.

Your cooperation is greatly appreciated.

Receipt

Date: _____

Signed: _____

By: _____

Title: _____

Very truly yours,

THOMAS D. HURLBURT JR.

United States Marshal

By: William D.,
PH# (813)274-6459
Investigative Research Specialist

PRIOR EDITIONS ARE OBSOLETE AND NOT TO BE USED